



January 11, 2002

Ms. Pamela Smith  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2002-0190

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 157242.

The Texas Department of Public Safety (the "department") received a request for information regarding "look ups" of a certain license plate for a given time period and for information about nongovernmental access to the Texas Law Enforcement Telecommunication System. You have submitted for our review an excerpt from the transaction log maintained by the department that reflects when participating police agencies request a license plate check. You claim that this submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.108(b) excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . ." This section excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). When section 552.108(b) is claimed, the agency claiming it must reasonably explain, if the

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<sup>1</sup>We note that if the department maintains any other responsive information that was not submitted to this office, that information must be released at this time. See Gov't Code §§ 552.301, .302.

information does not supply the explanation on its face, how releasing the information would interfere with law enforcement. Open Records Decision No. 434 at 3 (1986). Whether disclosure of particular records will interfere with crime prevention must be decided on a case-by-case basis. Attorney General Opinion MW-381 (1981).

Here, you contend that the submitted information is excepted from public disclosure under section 552.108(b)(1) because release of the information "could alert a suspect to police suspicions in time to avoid apprehension." You have not demonstrated, however, that in this particular instance the release of the information at issue would interfere with any law-enforcement interest of the department or any other law-enforcement agency. Consequently, we conclude that the submitted information is not excepted from public disclosure under section 552.108(b)(1) and therefore must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

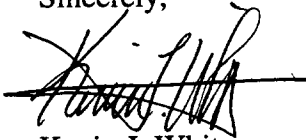
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin J. White', is written over a horizontal line.

Kevin J. White  
Assistant Attorney General  
Open Records Division

KJW/seg

Ref: ID# 157242

Enc. Submitted documents

c: Mr. Alan Cerniglia  
4226 Spring Meadow Lake  
Flower Mound, Texas 75028  
(w/o enclosures)